

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

1998 Biennial Review –
Streamlined Contributor Reporting
Requirements Associated with Administration
of Telecommunications Relay Services, North
American Numbering Plan, Local Number
Portability, and Universal Service Support
Mechanisms

CC Docket No. 98-171

OPPOSITION OF BELL ATLANTIC¹ TO MCI PETITION FOR RECONSIDERATION

MCI's petition for reconsideration simply repeats arguments that the Commission has already considered and rejected. The Commission spent two pages of its Report and Order explaining why it rejected MCI's proposal to assess contributions to all four funds based on net telecommunications revenues rather than end user revenues.² MCI's claim that the Commission failed to address this issue borders on the frivolous.

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

² 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, CC Docket No. 98-171, Report and Order, FCC 99-175, ¶¶ 63-66 (rel. July 14, 1999) ("Report and Order").

In the Report and Order, the Commission decided to assess contributions to the Telecommunications Relay Service (“TRS”) and North American Numbering Plan (“NANP”) mechanisms on the basis of end user revenues, to be consistent with the method it adopted previously for the universal service and local number portability funds. *See Report and Order*, ¶¶ 57-67. The Commission found that this would reduce the administrative burden on carriers that report revenues to all four funds and that it would meet the applicable statutory standards, including the requirement in Section 251(e) of the Act that funding for number administration be “competitively neutral.”

MCI argues that the Commission failed to consider its argument that relying on end user revenues would be less competitively neutral than relying on net telecommunications revenues, claiming that an end user revenue assessment would shift a greater share of funding to the interexchange carriers, who allegedly face greater competition than the incumbent local exchange carriers.

To the contrary, the Commission specifically addressed, and rejected, MCI’s arguments. First, the Commission found that MCI’s request to use net revenues for all four funds was outside the scope of this proceeding, which only provided public notice that the Commission intended to consider changing the funding mechanisms for the TRS and NANP funds. *See id.*, ¶ 63. Second, the Commission noted that, for these two funds, the Act required competitive neutrality only for the NANP fund, and that the Commission had discretion regarding both funds to consider other valid regulatory goals, such as administrative efficiency. *See id.*, citing 47 U.S.C. § 251(e)(2). Third, the Commission agreed with MCI that shifting to end user revenues would increase the relative

contribution of the IXC's, but that this would not prevent the end user method of assessment from meeting the two-pronged test for competitive neutrality, as set forth in the Local Number Portability Cost Recovery Order. *See id.*, ¶ 64, citing Telephone Number Portability, Third Report and Order, 13 FCC Rcd 11701, ¶ 108 (1998) ("Local Number Portability Cost Recovery Order"). Fourth, the Commission rejected MCI's argument that the change in revenue basis would significantly favor one segment of the telecommunications industry over another, finding that both assessment methodologies involve a pass-through of the overwhelming majority of the local exchange carriers' funding assessments to the interexchange carriers. *See Report and Order*, ¶ 65. Finally, the Commission disagreed with MCI's arguments that a net revenue assessment would minimize administrative burdens, correctly finding that using the same end user revenue assessment for all four funds would simplify reporting burdens on all carriers. *See id.*, ¶ 66.

MCI cannot credibly maintain that the Commission failed to address its arguments. The Commission was well aware of the fact that interexchange carriers would pay more under an end user revenue assessment methodology for the TRS and NANP funds, but it found that the mechanisms would still meet the competitive neutrality test, and that the increased administrative efficiency justified the change. In its universal service order, the Commission had already found that basing contributions on end user revenues is competitively neutral, and superior to the net revenue methodology. *See Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶¶ 844-850 (1997). Since the TRS and NANP funds are a small fraction of the size of the universal service

fund, the correspondingly smaller impact on the interexchange carriers of adopting the end user revenue methodology for these funds is easily outweighed by the increased administrative efficiency of adopting a consistent funding basis for all four funds.

In addition, MCI misunderstands the issue of competitive neutrality. It argues that competitive neutrality should include consideration of the ability of carriers in industries with differing degrees of competition to recover the subsidy payments allocated to them. *See* MCI Petition, pp. 1-2. The Commission did not include this consideration in its two-pronged test for competitive neutrality, because it is irrelevant. Competitive neutrality means *neutrality between competitors, i.e.,* neutrality between carriers who compete with each other in a particular market.³ By arguing that the interexchange carriers and the local exchange carriers operate in different markets, MCI concedes that the end user revenue assessment will not affect their ability to compete with each other for a particular customer.

To the extent that MCI raised concerns that competition *within* the interstate toll market would hamper the ability of the interexchange carriers to recover their funding contributions, the Commission correctly noted that interexchange carriers would incur a significant part of the local exchange carriers' contributions through access charges under either the net revenue or end user revenue methodology. *See Report and Order*, ¶ 65.

MCI disputes the Commission's finding that "the overwhelming majority of these costs

³ *See Local Number Portability Cost Recovery Order*, ¶ 106. Under this test, the Commission considers whether (1) the allocator would give one service provider an appreciable, incremental cost advantage when competing for a subscriber; and (2) the allocator would disparately affecting the ability of competing carriers to earn a normal return.

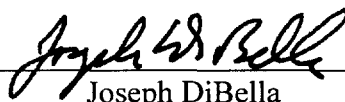
are passed through to toll carriers under either methodology,” but admits that as much as 70 percent of these costs are passed through. *See* MCI Petition, 3. In any event, the Commission recognized that the end user methodology would increase somewhat the interexchange carriers’ share of these funding obligations, but found that this “would not give one service provider an appreciable, incremental cost advantage when competing for a particular subscriber,” and that it would not “significantly favor one segment of the industry over another.” *See Report and Order*, ¶¶ 64, 65.

Indeed, the Act does not require equivalent contributions from each segment of the industry. The Commission correctly found that Section 225 of the Act does not require contributions to the TRS fund from all carriers, allowing it to exempt purely wholesale carriers from contributing. Even though Section 251(e)(2) does require contributions from “all telecommunications carriers,” the Commission found that this requirement could be satisfied by assessing only a \$25 contribution from purely wholesale carriers. Accordingly, MCI’s arguments about the relative shares paid into the funds by the interexchange carriers and the local exchange carriers are irrelevant.

Conclusion

The Commission should reject MCI's petition for reconsideration, which simply repeats arguments that the Commission has already considered and rejected.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph DiBella", is written over a horizontal line.

Joseph DiBella
1320 North Court House Road
Eighth Floor
Arlington, VA 22201
(703) 974-6350

Michael E. Glover
Of Counsel

Attorney for the Bell Atlantic
telephone companies

Dated: November 9, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 1999, copies of the foregoing
“Opposition to MCI Petition for Reconsideration” were sent by first class mail, postage prepaid,
to the parties on the attached list.

A handwritten signature in black ink, appearing to read "Jennifer L. Hoh", written over a horizontal line.

Jennifer L. Hoh

* Via hand delivery.

Magalie Roman Salas*
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

ITS*

Lawrence Fenster
MCI WorlCom
1801 Pennsylvania Ave., NW
Washington, DC 20006

Scott Bergmann*
Industry Analysis Division
Common Carrier Bureau
445 12th Street, SW
Washington, DC 20554

Catherine Wang
Russell M. Blau
Swidler Berlin Shereff Friedman
3000 K Street, NW
Suite 300
Washington, DC 20007

John Predergast
Blooston, Mordkofsky, Jackson & Dickens
2120 L Street, NW
Suite 300
Washington, DC 20037

John L. Traylor
1020 19th Street, NW
Suite 700
Washington, DC 20036

Judy Sello
AT&T
Room 3245I1
295 North Maple Avenue
Basking Ridge, NJ 07920

Leander R. Valent
Counsel for Ameritech
9525 West Bryn Mawr
Suite 600
Rosemont, IL 60018

Hope Thurrot
SBC Communications, Inc.
One Bell Plaza
Room 3023
Dallas, TX 75202

R. Edward Price
Peter M. Connolly
Koteen & Naftalin
1150 Connecticut Ave., NW
Suite 1000
Washington, DC 20036

Mark J. O'Connor
Piper & Marbury
1200 19th Street, NW
Suite 700
Washington, DC 20036

Andre J. Lachance
GTE Service Corporation
1850 M Street, NW
Suite 1200
Washington, DC 20036

Linda L. Kent
USTA
1401 H Street, NW
Suite 600
Washington, DC 20005

Robert Haga
Universal Service Administration Co.
1201 Pennsylvania Ave., NW
Suite 300
Washington, DC 20004

Stephen L. Earnest
BellSouth Corporation
Suite 1700
1155 Peachtree Street, NE
Atlantic GA 30309-3610

John A Ricker
NBANC
100 South Jefferson Road
Whippany, NJ 07981

Michael F. Altschul
CTIA
1250 Connecticut Ave., NW
Suite 200
Washington, DC 20036

Cheryl A. Tritt
Morrison & Foerster
2000 Pennsylvania Ave., NW
Suite 5500
Washington, DC 20006-1888

Christopher T. McGowan
Dickstein Shapiro Morin & Oshinsky
2101 L Street, NW
Washington, DC 20037-1526